

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Leo Stoller d/b/a
CENTRAL MFG.
P.O. Box 35189
Chicago, IL 60707

Opposition No: 91160234

Opposer,

Trademark: **AIRFRAME BUSINESS
SOFTWARE, INC.**

vs.

Opposition No: 91160234

Airframe Business Software, Inc.
800 Southwood Blvd, Suite 105
Incline Village, NV 89451

Application SN: 78-233,204

Applicant.

TTAB/NO FEE

TTAB

MOTION FOR RULE 11 SANCTIONS

NOW COMES the Opposer moves the Board to sanction the Applicant under Rule 11 for filing frivolous Affirmative Defenses.

Affirmative Defense No. 1: First Affirmative Defense to All Causes of Action - Failure to State a Cause of Action.

"The Notice of Opposition, and each and every purported cause of action therein, fails to allege facts sufficient to constitute any cause of action to support the Opposition, in that Opposer fails to demonstrate with requisite specificity any similar goods and services between the parties and any likelihood of confusion, mistake or deception that would warrant judgment in favor of Opposer."

Second Affirmative Defense to All Causes of Action - Fraud - Paragraph 2.

"2. Opposer specifically alleges use and registration of a mark constituting 'business software, including database management for email programs; web site development, web site management and hosting, etc.' (See Notice of Opposition, Paragraph 22), when Opposer has no such registration descriptions on file with the U.S. Patent and Trademark Office."

The filing of frivolous affirmative defenses can be subject to a Rule 11 sanction.

Sanctions If, after notice and reasonable opportunity to respond, the court determines that subdivision (b) has been violated, the court may subject to the conditions stated below, impose an appropriate sanction upon the ...parties that have violated subdivision (b) or are responsible for the violation.




07-23-2004

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #22

The quoted provisions of Federal Rule 11 apply to pleadings, motions and other papers filed in inter partes proceedings before the Board. See Trademark Rule 2.116(a) and authorities cited in TBMP §529.01. Moreover, in considering whether the conduct of a party relating to the filing of a premature and consequently a frivolous Affirmative Defense motion to compel is sanctionable, either under Rule of the Board's inherent authority.

WHEREFORE, the Opposer prays that the Board issue a Rule 11 sanction against the Applicant for the filing of the said frivolous affirmative defenses, and as an appropriate sanction, issue a judgment in the form of denying the Applicant registration of the mark sought to be registered; sustaining Opposer's Opposition and dismissing Applicant's Counterclaims with prejudice.

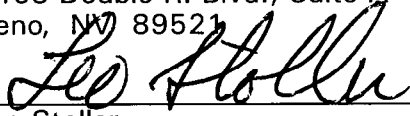
By: 
Leo Stoller
CENTRAL MFG., INC., Opposer
Trademark & Licensing Dept.
P.O. Box 35189
Chicago, Illinois 60707-0189
773 283-3880 FAX 708 453-0083

Dated: June 25, 2004

Certificate of Service

I hereby certify that the foregoing *Motion for Rule 11 Sanctions* is being sent by FAX and deposited with the U.S. Postal Service in an envelope addressed to:

Ann Rosevear
WALSH, BAKER & ROSEVEAR, P.C.
9468 Double R. Blvd., Suite A
Reno, NV 89521

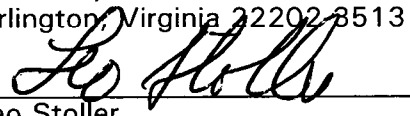


Leo Stoller
Dated: June 25, 2004

Certificate of Mailing

I hereby certify that the foregoing *Motion for Rule 11 Sanctions* is being by U.S. first class mail with the United States Postal Service in an envelope addressed to:

Box TTAB/NO FEE
Assistant Commissioner of Patents and Trademarks
2900 Crystal Drive,
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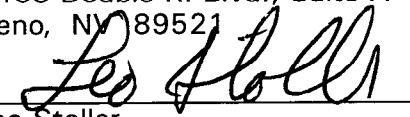


Leo Stoller
Date: July 20, 2004

Certificate of Service

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Leo Stoller
Date: July 20, 2004

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